

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

Bernard Howell, Sr. individually, and
Bernard Howell, Sr., as parent and custodian
of BH, Jr.,)
Plaintiff,)
v.) Case No. _____
Frontier Airlines Holdings, Inc.)
Defendant.) Judge _____

VERIFIED COMPLAINT

The Plaintiff, Bernard Howell, for himself, and as parent and natural guardian of BH, Jr, a minor, by and through their attorneys Morris Law Group, P.A., in support of this complaint states and alleges the following:

1. The Plaintiffs are citizens of the state of Minnesota, currently residing in Burnsville, County of Dakota (First Judicial District).
2. The Defendant is a Colorado corporation with its principal place of business in Colorado, and does substantial business in all states and markets, including Minnesota. That Defendants pay for and use a permanent terminal at the Minneapolis/St. Paul international airport in Minnesota. Defendant has sufficient minimum contacts for constitutional purposes to allow Minnesota to have jurisdiction of this law suit (State and Federal Court). Defendant flies countless residents and citizens of Minnesota in and out of

**PLAINTIFF'S
EXHIBIT**

Minnesota. Defendant has personnel in Minnesota, hangers in Minnesota, maintenance garage and staff in Minnesota – all for the protection of those coming in and out of Minnesota, and for Defendant's airplanes in Minnesota.

3. Defendant is a citizen of the state of Colorado; but again, has substantial contacts in Minnesota (terminal, substantial flying in and out - picking up and departing Minnesota residents, such as Plaintiffs).

4. The amount in controversy exceeds \$75,000, exclusive of interest and costs.

5. This Court has subject matter jurisdiction pursuant to 28 U.S.C § 1332. (Diversity of citizens and dispute greater than \$75,000.00).

6. The defendant does business in Minnesota, and has a registered agent in this State. The defendant resides in this district within the meaning of 28 U.S.C § 1391(c) and this Court is a proper venue for this case pursuant to 28 U.S.C. § 1391(b). That Defendants fly numerous planes in and out of Minnesota, take countless citizens and residents in and out of Minnesota, and have Garages, hangers, mechanics and performs mechanical works on their planes in Minnesota. Defendants market and advertise in Minnesota and advertised to Plaintiffs. Plaintiffs, in Minnesota and while in Minnesota purchased a plane ticket for himself and his son, and Defendant sold the plane tickets in Minnesota and the transaction occurred in Minnesota. That Defendants always foresee there could be an accident or incident in any state, including Minnesota, at all times of their operations. Defendants are subject to

the rules, codes and regulations of the Minneapolis/St. Paul Airport Commission and pay fees to the same for gate privileges and having a physical location in Minnesota. Defendants expressly represent they are an airline for Minnesotans.

7. On or about April 30, 2019, Plaintiffs were permissive passengers traveling by air from Las Vegas to Minneapolis, Minnesota. On a leg of this journey from Las Vegas to Colorado, Plaintiffs were injured as a result of an emergency descent and/or rough landing and/or trouble with a landing gear, and/or pilot error/negligence, causing Plaintiffs to be thrown forward and up in their seats. Plaintiff Bernard Howell, Sr., ended up banging his head very hard on the overhead cabin and also in his seat, causing a concussion and traumatic brain injury.

8. Pursuant to 49 U.S.C. § 44701(d)(1)(A), § 44702(b)(1)(A), and applicable state common law, it was the duty of the defendant air carrier to provide service to Plaintiffs and other passengers on board flight on or about April 30, 2019, with the highest possible degree of safety in the public interest.

9. Notwithstanding and in violation of this duty the defendant, through agents, servants or employees acting within the course and scope of their employment:

- a. Negligently maintained and inspected the aircraft;

- b. Negligently maintained and inspected the component parts of the aircraft;
- c. Negligently maintained and inspected the cabin pressurization system and sensors including a “Cabin Pressure Control” (CPC) which malfunctioned; and or
- d. Negligently operated the aircraft.
- e. Plaintiffs also assert the doctrine of Res Ipsa Loquitur, as Defendant was in the sole and exclusive control of the maintenance and operation/piloting of the place in question and Plaintiffs had no right to control these matters and certainly, did nothing to cause the hard landing and any mechanical problems. The type of landing hard was something.

10. In the alternative to these specific negligent acts or omissions, Plaintiff invokes the doctrine of res ipsa loquitur because the defendant was in exclusive control of the aircraft and an emergency descent and/or hard landing and/or landing gear issues, unrelated to other air traffic is not the type of event that ordinarily happens absent negligence by the air carrier in either maintenance or operation of the aircraft, both of which the airline is responsible for under the Federal Aviation Act and Part 121 of the Federal Aviation Regulations.

11. As a direct and proximate result of one or more of the aforementioned specific negligent acts or omissions or defendant’s general

negligence, Plaintiffs. suffered severe injuries and damages of a personal and pecuniary nature including, but not limited to medical expenses, physical pain, emotional suffering, partial disability, loss of earning capacity and loss of a normal life for over six months. These losses have been incurred in the past and will be incurred in the future. Some of these losses are permanent. Plaintiff BH, Jr. suffered extreme emotional distress and some injury.

WHEREFORE, the Plaintiffs respectfully request that judgment be entered in their favor and against the Defendant in an amount which will fully and fairly compensate for all compensable losses under state and Federal law. This equates to a sum of at least \$275,000.00.

Plaintiff demands trial by jury.

LAWYER FOR PLAINTIFF
Morris Law Group, P.A.
s/s Rich Hechter
Richard Hechter (#199537)
7380 France Avenue South, Suite 250
Edina, MN 55435
Phone: (952) 832-2000
Email: rhechter@morrislawmn.com

DATED: February 16, 2023

/s/ Richard Hechter

Richard Hechter

Verification

I, Bernard Howell, Sr., state and swear, subject to the laws of perjury,

that everything in this complaint is true and accurate to the best of my information, knowledge and belief.

s/s Bernard Howell

Bernard Howell

JS 44 (Rev. 04/21)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Bernard Howell, Sr., individually, and Bernard Howell, Sr., as parent and custodian of BH, Jr., a minor

(b) County of Residence of First Listed Plaintiff Dakota
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

Morris Law Group, P.A., 7380 France Avenue South, STE 250, Edina, MN 55435; 952-832-2000

DEFENDANTS

Frontier Airlines Holdings, Inc.

County of Residence of First Listed Defendant Denver

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

Unknown

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input checked="" type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/>	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input checked="" type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input checked="" type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	PERSONAL INJURY	PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 375 False Claims Act
<input type="checkbox"/> 120 Marine	<input checked="" type="checkbox"/> 310 Airplane	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 376 Qui Tam (31 USC 3729(a))
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 367 Health Care/ Pharmaceutical Personal Injury Product Liability	INTELLECTUAL PROPERTY RIGHTS	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 430 Banks and Banking
<input checked="" type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 835 Patent - Abbreviated New Drug Application	<input type="checkbox"/> 450 Commerce
<input checked="" type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans)	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 355 Motor Vehicle	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 880 Defend Trade Secrets Act of 2016	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 385 Property Damage Product Liability	SOCIAL SECURITY	<input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692)
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 400 Other Civil Rights	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 485 Telephone Consumer Protection Act
<input type="checkbox"/> 195 Contract Product Liability		<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 196 Franchise		<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 850 Securities/Commodities/ Exchange
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 890 Other Statutory Actions
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 443 Housing/ Accommodations	Habeas Corpus: <input type="checkbox"/> 463 Alien Detainee	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 510 Motions to Vacate Sentence	FEDERAL TAX SUITS	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 530 General	<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 448 Education	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 896 Arbitration
<input type="checkbox"/> 245 Tort Product Liability		Other: <input type="checkbox"/> 540 Mandamus & Other		<input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision
<input type="checkbox"/> 290 All Other Real Property		<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 950 Constitutionality of State Statutes
		<input type="checkbox"/> 555 Prison Condition		
		<input type="checkbox"/> 560 Civil Detainee - Conditions of Confinement		

V. ORIGIN (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original Proceeding	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court	<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 Transferred from Another District (specify)	<input type="checkbox"/> 6 Multidistrict Litigation - Transfer	<input type="checkbox"/> 8 Multidistrict Litigation - Direct File
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Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
28 USC Sec. 1332 et.seq. and 49 USC Sec. 44701 et seq and 49 USC Sec. 44702 et seq.

VI. CAUSE OF ACTION

Brief description of cause:
Negligence leading to personal injuries with regard to operating and maintaining an airplane.

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

275,000.00

CHECK YES only if demanded in complaint:

JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

May 31, 2023

s/s Richard W. Hechter

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____

APPLYING IFFP _____

JUDGE _____

MAG. JUDGE _____

UNITED STATES DISTRICT COURT
 for the
District of Minnesota

Bernard Howell, Sr,

Plaintiff,

v.

Case No. 0:23-cv-01600-JRT-DTS

Frontier Airlines Holdings, Inc.,

Defendant.

SUMMONS IN A CIVIL ACTION

To: Frontier Airlines Holdings, Inc.

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) - or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) - you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

Richard W Hechter
 7380 France Avenue South
 250
 Minneapolis, MN
 55435

If you fail to respond, judgment by default may be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

By:



Kate M. Fogarty, Clerk of Court

Date of Issuance: June 7, 2023

Civil Action No. 0:23-cv-01600-JRT-DTS

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))

This summons for (*name of individual and title, if any*) _____ was received by me on (*date*) _____.

I personally served the summons on the individual at (*place*) _____ on (*date*) _____; or

I left the summons at the individual's residence or usual place of abode with (*name*) _____, a person of suitable age and discretion who resides there, on (*date*) _____, and mailed a copy to the individual's last known address; or

I served the summons on (*name of individual*) _____, who is designated by law to accept service of process on behalf of (*name of organization*) _____ on (*date*) _____; or

I returned the summons unexecuted because _____; or

Other (*specify*): _____

My fees are \$_____ for travel and \$_____ for services, for a total of \$_____.

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc: